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## **1 INTRODUCTION**

- 1.1 This paper covers the policies and research that have informed policy 33 (s106 Planning obligations) in the Canada Water AAP.

## **2 POLICY BACKGROUND**

### **NATIONAL**

#### **Planning Policy Statement 12 (PPS12)**

- 2.1 Planning Policy Statement 12 (PPS12) identifies that the new spatial planning system is a process of place shaping and delivery orchestrates the necessary social, physical and green infrastructure to ensure sustainable communities are delivered (para 2.4). PPS12 requires that spatial planning provides an opportunity to assess what physical, social and green infrastructure is needed to enable the amount of development proposed for the area, taking account of its type and distribution. It should draw on and in parallel influence any strategies and investment plans of the local authority and other organisations.

#### **Circular 05/05**

- 2.2 Circular 05/2005 Planning Obligations sets out the Governments policy for planning obligations. Paragraph B1 states that; “the principal objective of the planning system is to deliver sustainable development, through which key Government social, environmental and economic objectives are achieved. The delivery of these goals is provided for in a framework of development documents, in which local communities are positively involved, and through a transparent system of decision-making on individual applications”.
- 2.3 Paragraphs B21-B24 advise that local authorities may pool contributions in order to enable infrastructure to be provided in a fair and equitable way and where individual developments will have some impact but not sufficient to justify the need for a discrete piece of infrastructure.
- 2.4 Planning contributions should only be sought where they meet the following tests:
- i. necessary;
  - ii. relevant to planning;
  - iii. directly related to the proposed development;
  - iv. fairly and reasonably related in scale and kind to the proposed development;
  - v. reasonable in all other respects.

#### **The Planning Act 2008**

- 2.5 The Planning Act 2008, which received Royal Assent in November 2008, contains enabling clauses for a Community Infrastructure Levy (CIL) in England and Wales. The Levy will be a charge on development which local planning authorities can choose to set and which is designed to help fund needed infrastructure identified in their plans. It will be paid primarily by owners or developers of land which is developed.

- 2.6 Part 11 of the Planning Act 2008 provides the legislative basis for CIL and enables the Secretary of State to lay regulations before Parliament establishing CIL. It is these regulations which form the basis of the current consultation (see below). London Councils lobbied for changes on CIL when the Planning Act was going through Parliament but many of the issues we are concerned about are covered by the regulations. The final CIL regulations need to be approved by an affirmative resolution of the House of Commons. This means that the Commons must pass a motion following a debate approving the draft regulations.

### **Community Infrastructure Levy consultation document**

- 2.7 The Department for Communities and Local Government issued a consultation document setting out detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy in July 2009.
- 2.8 The Community Infrastructure Levy (CIL) will be a new charge which local authorities in England and Wales will be empowered, but not required, to levy on most types of residential, commercial and industrial development in their areas.
- 2.9 The Act requires charging authorities to produce a draft charging schedule setting out the CIL charges in their area. The Government proposes that the schedule will not be legally part of the development plan but it will be tested in a similar way to development plan documents and should be treated as part of the Local Development Framework.
- 2.10 Planning obligations will remain available to local planning authorities after the CIL regulations come into force and developer contributions towards affordable housing will continue to be made through planning obligations. The Government acknowledges that a longer transitional period is likely to be required for reform of planning obligations to allow local authorities who currently use standard charges require sufficient time to establish a CIL as a replacement.

## **REGIONAL GUIDANCE**

### **London Plan**

- 2.11 London Plan policies 6A.4 (Priorities in planning contributions) and 6A.5 (Planning contributions) state that DPD policies should seek to reflect appropriate strategic as well as local needs in their policies for planning contributions. Affordable housing and public transport improvements should generally be given the highest importance with priority. Boroughs should set out a clear framework for negotiations on planning contributions.
- 2.12 Policy 8.2 of the London Replacement Plan carries forward the thrust of this policy indicating that affordable housing; supporting the funding of Crossrail and other public transport improvements should be given the highest importance.

## **LOCAL POLICY CONTEXT**

### **Southwark Unitary Development Plan adopted in July 2007**

- 2.13 Policy 2.5 of the adopted plan provides the basis for seeking developer contributions towards the provision of new infrastructure to mitigate the impact of new development. Appendix 6 provides a framework showing requirements for a range of land uses.

### **Core Strategy**

- 2.14 Policy 14 of the emerging core strategy provides further guidance on section 106. The policy provides further detail on the justification for seeking planning obligations to overcome negative impacts of development and to make sure that infrastructure needed to support development is provided, and defers to government guidance, set out Circular 2005/05.
- 2.15 The policy also explains that the existing approved Planning Obligations supplementary planning document will continue to be used, and will be updated and replaced by a revised SPD in the near future.
- 2.16 It indicates that further guidance on area specific policies for regeneration areas such as Canada Water and Peckham will be provided through the area action plans for those areas which are currently being drafted. The core strategy also provides a detailed table setting out the implementation plan to deliver the visions for the opportunity areas (Bankside, Borough and London Bridge and also Elephant and Castle) and the action areas where we are preparing area action plans (Aylesbury, Canada Water and Peckham and Nunhead).

### **Aylesbury Area Action Plan, January 2010**

- 2.17 The council has developed a specific tariff for the Aylesbury Estate as part of the Area Action Plan (AAP) (policy D2). The tariff will be applied to all schemes developed within the core area and will be based on a charge per dwelling.
- 2.18 The specific tariff has been created for physical infrastructure projects, including open spaces, energy infrastructure and highway improvements.

### **Section 106 Planning Obligations Supplementary Planning Document (SPD), July 2007**

- 2.19 Further detail and articulation of policy 2.5 of the Southwark Plan is set out in the adopted Section 106 SPD adopted July 2007. The SPD details a set of standard charges for each class of infrastructure, including education, health, transport, open space, sports development, and employment projects.
- 2.20 Southwark will review the s106 Planning Obligations SPD in 2010 and adopt a revised SPD in 2011. This is set out in the 2010 local development scheme.

## **3 RESEARCH AND EVIDENCE**

### **AGREED AND PROJECTED S106 CONTRIBUTIONS**

- 3.1 Several developments in the AAP area already have planning permission or a resolution to grant permission, subject to referral to the Mayor and Secretary of State. This includes schemes on Sites A and B, the Decathlon site and Leisure Park site. Table 1 shows contributions which have been agreed for schemes in the area. It should be noted that not all of these contributions have yet been collected as some schemes are not yet implemented.
- 3.2 We have projected forward contributions which are anticipated from developments not yet decided. These are also set out in Table 1.

**Table 1: s106 planning obligations agreed and projected for developments in the AAP area (January 2010)**

s106 item	Totals (£)	Agreed in approved schemes (£)	Projected (£)
Education	5,213,798	2,751,862	2,461,936 <sup>1</sup>
Employment during the development	635,122	187,066	448,056 <sup>1</sup>
Employment during construction	2,612,398	1,325,228	1,287,170 <sup>1</sup>
Employment during construction management fee	136,620	33,324	103,296 <sup>1</sup>
Public open space	556,457	443,420	113,037 <sup>1</sup>
Children's play equipment	188,893	119,519	69,374 <sup>1</sup>
Sports development	1,561,875	1,069,802	492,073 <sup>1</sup>
Strategic transport	2,052,193	1,119,322	932,871 <sup>1</sup>
Site Specific transport	1,734,317	626,317	
Lower Road project contributions	5,428,801	987,164	4,441,637 <sup>2</sup>
TfL transport	270,000	270,000	
Public realm, walking and cycling projects	1,465,250	955,250	510,000 <sup>2</sup>
Archaeology	16,934	7,332	9,602 <sup>1</sup>
Health	2,457,988	1,308,408	1,149,580 <sup>1</sup>
Library	1,700,000	1,700,000	
Public art	70,975	70,975	
CCTV	119,000	119,000	
Community facilities	375,141	183,925	191,216 <sup>1</sup>
Cycle station	In kind provision	In kind provision	
Redriff Primary school	130,000	130,000	
Amendment to traffic order	2,500	2,500	
CPZ	240,000	160,000	80,000
Surrey Quays Road improvements	672,018 (in kind and payment)	672,018 (in kind and payment)	
Albion Channel footbridge	In kind provision	In kind provision	
Plaza	2,014,187	2,014,187	

<sup>1</sup> Based on the standard charges set out in our adopted s106 Planning Obligations SPD

<sup>2</sup> Based on the figures set out in section 7.7 of the AAP

<b>Site A public realm</b>	In kind provision	In kind provision	
<b>Site A Public green space</b>	In kind provision	In kind provision	
<b>Decathlon site/eastern side of Canada Water basin public realm</b>	In kind provision	In kind provision	
<b>Project bank</b>	208,583	208,583	
<b>Site A Community space</b>	170,686 (in kind and payment)	170,686 (in kind and payment)	

### APPLICATION OF S106 PLANNING OBLIGATIONS

- 3.3 With around 3,400 new homes and 35,000sqm of shopping space, the AAP area will experience significant growth over the life of the plan. To implement the AAP and accommodate this growth, it will also be necessary to make improvements to the road network, pedestrian and cycle infrastructure, public open spaces, sports facilities, play spaces, and new or larger health facilities and new school places.
- 3.4 We will use s106 planning obligations to help secure funding for infrastructure improvements and set out a schedule of standard charges in our S106 Planning Obligations SPD.
- 3.5 Our current s106 Planning Obligations supplementary planning documents provides a set of standard charges which we make on all new large developments. It includes charges for school places, health facilities, employment support and training, strategic transport infrastructure, open spaces, play facilities, sports facilities and public realm.
- 3.6 In our LDS we have committed to reviewing the current s106 Planning Obligations SPD in 2010/2011. During this process we will review our model for seeking standard charges and the levels of contributions, to ensure these reflect current circumstances.
- 3.7 The s106 planning obligations SPD will apply to the AAP area. Where appropriate, charges for physical infrastructure will be tailored to ensure that all developments contribute to necessary costs. This includes
- Transport contributions to improve the local highway network around Lower Road
  - Improvements to walking and cycling facilities
  - Implementation of an extension to the CPZ at Canada water
  - Improvements to strategically important public realm areas
  - Upgrades to local open spaces
  - Improvements to play facilities
- 3.8 There will be instances where, rather than paying a standard charge, the developer will carry out the work as part of the development of their site. In-kind obligations have been agreed to improve the public realm around the Decathlon site, the eastern side of the basin and to provide a replacement footbridge over the Albion Channel. It is also envisaged that a new open space on the shopping centre site and improvements to the southern and

western side of the basin would be provided in-kind, through the redevelopment of that site.

### **CONSISTANCY WITH REGIONAL AND NATIONAL PLANNING POLICIES**

- 3.9 Our approach is consistent with the guidance in paragraphs B21-B24 of Circular 05/05 which advise that local authorities may pool contributions in order to enable infrastructure to be provided in a fair and equitable way and where individual developments will have some impact but not sufficient to justify the need for a discrete piece of infrastructure.
- 3.10 Paragraph 6.5.4 of the AAP states that we will only seek obligations in accordance with national and regional policies.
- 3.11 For the most part, obligations sought will be consistent with the approach in our adopted s106 Planning Obligations SPD. We will introduce new standard charges to improve the road network and upgrade strategic public realm and cycling and walking facilities. In appendix 1 of this document we explain how these meet the Circular 05/05 tests.

### **VIABILITY TESTING**

- 3.12 We have tested the viability of the level of these contributions in respect of the shopping centre site which is the largest expected development. The CBRE town centre feasibility study demonstrated that a development of around 600 new homes and 30,000sqm of retail space would be viable as at the end of 2009. As the economy moves out of recession and values in the area rise, financial prospects of the development are likely to improve further.
- 3.13 We also tested this level of contributions in a financial appraisal of development of St Georges Wharf. Again, the appraisal suggested that two or the three options would be viable, as of the end of 2009.

### **TRANSPARENCY**

- 3.14 Standard charges are used as a clear and transparent way of recovering the costs of putting in place social and strategic infrastructure. This infrastructure is needed to support the development and to offset the impact of the scheme on existing amenities such as parks, health and childcare facilities etc. Publishing charges in planning policy documents will provide developers with more certainty when making investment decisions.

### **FLEXIBILITY**

- 3.15 Setting out standard charges in an SPD rather than in the AAP itself, will build in more flexibility by enabling the council to adjust charges depending on forthcoming infrastructure needs and in the light of viability considerations. The council monitors the collection and allocation of funds and reports regularly to ensure transparency<sup>3</sup>.

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<sup>3</sup> Reports on the collection and allocation of s106 planning obligations are currently published quarterly on the council's website:  
<http://www.southwark.gov.uk/YourServices/planningandbuildingcontrol/S106/S106local.html>

- 3.16 The CLG have published the draft Community Infrastructure Levy regulations and related consultation paper for response by October 2009. The section 106 requirements and standard charges may change based on new requirements that may be introduced. Our approach will provide some flexibility to enable the council to introduce a Community Infrastructure Levy (CIL) should this come into effect.

#### **4 DOCUMENT REFERENCES**

CDN1	Planning Policy Statement 1 Planning for Sustainable Development (2005)
CDR1	London Plan Consolidated with Alterations (2008)
CDR2	Consultation Draft Replacement London Plan 2009
CDL1	Southwark Plan (2007)
CDL5	Southwark Local Development Scheme (January 2010)
CDAAP1	Aylesbury Area Action Plan
CDCS1	Core Strategy Submission/Publication 2009
CDSPD6	s106 Planning Obligations SPD, 2007
CDD47	Canada Water Town Centre Financial Viability Study, CBRE, (Jan 2010)
CDD48	St George's Wharf Study, 2010

5 APPENDIX 1

**Table 2: Relationship between the Circular 05/05 tests and the proposed obligations to improve the highway network, strategic public realm and walking and cycling facilities**

	<b>Necessary</b>	<b>Relevant to planning</b>	<b>Directly related to the development</b>	<b>Fairly and reasonably related in scale and kind to the proposed development</b>	<b>Reasonable in all other respects</b>
<b>Road network improvements</b>	<p style="text-align: center;">√</p> <p>The transport Development Impact Report demonstrates that “business-as-usual” is not an option. Improvements to the network will be required to help accommodate growth.</p> <p>The planned improvements will smooth traffic flows, improve the environment for pedestrians and cyclists and simplify the network for all</p>	<p style="text-align: center;">√</p> <p>Through the transport Development Impact Report, we have demonstrated that cumulatively, the proposals in the plan will have a significant effect on the road network. It is legitimate to seek to mitigate the impact of development on the road network using s106 planning obligations. This is consistent with paragraph B15 in Circular 05/05.</p>	<p style="text-align: center;">√</p> <p>The transport development Impact Report shows the cumulative impacts of individual developments.</p> <p>The standard charge will relate directly to the scale of development.</p>	<p style="text-align: center;">√</p> <p>The scale of the charge will reflect the trip generation rates of the proposal. Where a proposal results in a net reduction in trips, as we project would be the case on the Quebec Industrial Estate for example, the charge will not apply.</p> <p>We have tested the impact of the charge on the viability of two proposal sites: the shopping centre and St George’s Wharf.</p>	<p style="text-align: center;">√</p>

	<b>Necessary</b>	<b>Relevant to planning</b>	<b>Directly related to the development</b>	<b>Fairly and reasonably related in scale and kind to the proposed development</b>	<b>Reasonable in all other respects</b>
	users.			Further viability testing will take place during the preparation of the revised s106 Planning Obligations SPD.	
<b>Improvements to strategic public realm, walking and cycling facilities</b>	<p style="text-align: center;">√</p> <p>Through the AAP over 3,400 new homes and 35,000sqm of new shopping space will be built in the AAP area over the next 15 years.</p> <p>Anticipated growth in the AAP area will place an additional burden on strategic areas of public realm around the town centre and docks.</p>	<p style="text-align: center;">√</p> <p>A key part of the AAP vision is the transformation of the town centre and the creation of high quality public realm and open spaces.</p> <p>The vision also seeks to ensure that the centre is accessible, particularly by sustainable modes of transport.</p>	<p style="text-align: center;">√</p> <p>The AAP identifies strategic areas of public realm. These comprise areas in the town centre around the Canada Water basin, the docks and Albion Street.</p> <p>These are areas from which all developments in the AAP area benefit. Growth on development sites will impact on these</p>	<p style="text-align: center;">√</p> <p>The scale of the charge will reflect the scale of the proposal.</p> <p>We have tested the impact of the charge on the viability of two proposal sites: the shopping centre and St George’s Wharf. Further viability testing will take place during the preparation of the revised s106 Planning Obligations</p>	<p style="text-align: center;">√</p>

	<b>Necessary</b>	<b>Relevant to planning</b>	<b>Directly related to the development</b>	<b>Fairly and reasonably related in scale and kind to the proposed development</b>	<b>Reasonable in all other respects</b>
	<p>It will also impact on cycling and walking facilities. To accommodate growth sustainably, we will need to restrain provision of car parking. Restraining car parking and promoting sustainable modes of transport will result in more walking and cycling trips.</p>		<p>areas. We consider it legitimate to use s106 planning obligations to help secure upgrades to these areas.</p> <p>In AAP policy 7, we set out a strategy from improving pedestrian and cycle links across the AAP area. This involves improving strategic links between the town centre and the Thames Path/river. All developments in the area will benefit from these improved links.</p>	<p>SPD.</p>	